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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

CORAM:

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM
C.M.A.No.2909 of 2015

A.Dharanivel

Petitioner
Vs

Appellant/

The Managing Director,
Metropolitan Transport Corporation Limited,
Anna Salai,
Chennai 600 002.

Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 for enhancement of compensation against the fair and decreetal order dated 13.02.2013, in M.C.O.P.No. 798 of 2010, on the file of the Motor Accidents Claims Tribunal, (V Court of Small Causes), Chennai.

For Appellant : Mrs.Ramya V. Rao
For Respondent : Mr.K.S.Suresh

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the Judgment and decree made in M.C.O.P.No. 798 of 2010, dated 13.02.2013, by the appellant, who is the claimant in the claim application.

2. The brief facts of the claim application is that on 14.04.2008, at about 06.30 a.m., when the appellant/claimant was proceeding in the Periyapalayam Road to go to Alanthur, by riding his motorcycle TVS XL bearing Registration No. TN 20 AH 0771, at that time, the Metropolitan Transport Corporation bus bearing Registration No. TN 01 N 5065, which came behind the motorcycle, hit the appellant/claimant and caused the accident. This accident occurred only due to the rash and negligent driving on the part of the driver of the Metropolitan Transport Corporation bus and the appellant/claimant sustained severe injuries and he also



sustained disability, incurred medical expenses, loss of income, loss of amenities and for all these, he claimed a sum of Rs.3,00,000/- as compensation from the respondent/Transport Corporation.

3. The respondent/Transport Corporation has denied the averments and claim made by the claimant, especially the rash and negligent driving on the part of the driver of the Metropolitan Transport Corporation bus. The respondent/Transport Corporation also fixed the negligence on the part of the appellant/claimant, who was driving the motorcycle in a zig zag manner. Hence, the rash and negligent driving disowned by the Transport Corporation. Further, the respondent/Transport Corporation also denies the sum claimed by the appellant/claimant as compensation without any documentary proof. He further states that the motorcyclist is also responsible for his contributory negligence. Hence, the liability has to be fixed with greater percentage.

4.The Tribunal after analysing the evidence and materials placed before it, has given the findings that the accident occurred only due to the rash and negligent driving on the part of the Metropolitan Transport Corporation bus and while fixing the compensation, the Tribunal has also observed the evidence and documents relating to the injuries, treatment and disability and finally awarded a sum of Rs.1,23,000/- as compensation under the various heads:

S.No	Head	Compensation (in.Rs.)
1.	Loss of earning	10,000.00
2.	Transport to Hospital	7,000.00
3.	Extra nourishment	5,000.00
4.	Damage to clothes	500.00
5.	Medical expenses	30,189.00
6.	Pain and suffering	20,000.00
7.	Disability at 25% at Rs.2,000/- per percentage	50,000.00
Total		1,22,689.00



perusal of all records, as rightly pointed out by the Tribunal, the age of the appellant/claimant was 29 years at the time of the accident, and consideration of the disability as 25% is accepted and this Court is inclined to award Rs.3,000/- per percentage towards Disability. (Rs.3,000/- X 25% = Rs.75,000/-)

9. In view of the nature of injuries and the disability sustained by the appellant/claimant, the sum awarded under those specific heads which are all need to be modified. Further, no amounts were awarded towards 'loss of amenities', 'dis-figuration' and 'attender charges'. The sum awarded towards 'medical expenses' is very much reasonable. Hence, considering all those aspects, this Court modifies the sum awarded by the Tribunal under various heads as follows:

S.No	Head	Compensation (in.Rs.)
1.	Loss of earning (Rs.5,000 x 3 months)	15,000.00
2.	Transport to Hospital	10,000.00
3.	Extra nourishment	10,000.00
4.	Damage to clothes	500.00
5.	Medical expenses	30,189.00
6.	Pain and suffering	20,000.00
7.	Disability at 25% at Rs.3,000/- per percentage	75,000.00
8.	Loss of amenities	15,000.00
9.	Dis-figuration	5,000.00
10.	Attender's charges	10,000.00
Total		1,90,689.00
Rounded of to		1,90,700.00

Thus, the appellant/claimant is entitled to a sum of Rs.1,90,689/-, which is rounded of to Rs.1,90,700/- as revised compensation together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.
No costs.



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(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,23,000/- to Rs.1,90,689/-, which is rounded off to Rs.1,90,700/-, shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee.

(iv) The respondent/ Metropolitan Transport Corporation is directed to deposit the entire amount, awarded by this Court along with interest and costs before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. On such deposit being made, the Tribunal shall transfer the amount to the claimant's bank account through RTGS within a period of two weeks thereon.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vkx/vrn
To
The Motor Accidents Claims Tribunal,
V Court of Small Causes, Chennai.

+2ccs to Mr.A.N.Viswanathan , Advocate SR.No. 44867

C.M.A.No.2909 of 2015

A.SK(14/11/2019)